

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #8	CCRB Case #: 201802466	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/01/2018 6:00 AM	Location of Incident: Inside § 87(2)(b)	Precinct: 28	18 Mo. SOL 9/1/2019	EO SOL 9/1/2019	
Date/Time CV Reported Thu, 03/29/2018 12:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/29/2018 12:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Odalis Perez	07037	925905	NARCB BX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 Jeffrey Conover	02081	922148	NARCB BX

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Odalis Perez	Abuse: Detective Odalis Perez entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.DT3 Odalis Perez	Abuse: Detective Odalis Perez searched § 87(2)(b) in Manhattan.	§ 87(2)(b)
C.DT3 Odalis Perez	Abuse: Detective Odalis Perez threatened to arrest § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
D.DT3 Odalis Perez	Abuse: Detective Odalis Perez refused to show the arrest warrant to § 87(2)(b)	§ 87(2)(b)
E.DT3 Odalis Perez	Abuse: Detective Odalis Perez refused to provide her name to § 87(2)(b)	§ 87(2)(b)
F.DT3 Odalis Perez	Abuse: Detective Odalis Perez seized § 87(2)(b) § 87(2)(b)'s property from the living room § 87(2)(b) in Manhattan.	§ 87(2)(b)
G.DT3 Odalis Perez	Abuse: Detective Odalis Perez seized § 87(2)(b) § 87(2)(b)'s property from the bedroom inside § 87(2)(b) § 87(2)(b), in Manhattan.	§ 87(2)(b)

Case Summary

On March 29, 2018, § 87(2)(b) filed the following complaint with the CCRB's intake unit.

On March 1, 2018, at approximately 6:00 am, officers led by Det. Odalis Perez (Bronx Narcotics) arrived at § 87(2)(b)'s apartment, located at § 87(2)(b) in Manhattan, with an arrest warrant for § 87(2)(b) § 87(2)(b)'s boyfriend. Upon arresting § 87(2)(b) Det. Perez allegedly entered the apartment without § 87(2)(b)'s consent and eventually made her way into her bedroom (**Allegation A: Abuse of Authority – Premises Entered – § 87(2)(g)**, **Allegation B: Abuse of Authority – Premises Searched – § 87(2)(g)**). There, Det. Perez advised § 87(2)(b) that she needed to seize all of § 87(2)(b)'s cell phones, referring to the various phones in the living room and the one in § 87(2)(b)'s hands. Though she showed her receipts and related paperwork, § 87(2)(b) was unable to convince Det. Perez that the phones were hers' and not § 87(2)(b)'s. When § 87(2)(b) then asked to see the arrest warrant, Det. Perez said that she would be arrested if she did not hand over the phone she was holding (**Allegation C: Abuse of Authority – Threat of Arrest – § 87(2)(g)**, **Allegation D: Abuse of Authority – Refusal to show arrest warrant – § 87(2)(g)**). When § 87(2)(b) then asked for her business card, Det. Perez grabbed the phone out of § 87(2)(b)'s hands without answering (**Allegation E: Abuse of Authority – Refusal to provide name – § 87(2)(g)**). Det. Perez ultimately seized a total of four phones from the location – three from the living room, and the fourth from § 87(2)(b) inside the bedroom (**Allegation F: Abuse of Authority – Seizure of property – § 87(2)(g)**, **Allegation G: Abuse of Authority – Seizure of property – § 87(2)(g)**). § 87(2)(b) was not arrested as a result of the incident. There is no relevant video footage.

Findings and Recommendations

Allegation A: Abuse of Authority – Premises Entered: Detective Odalis Perez entered § 87(2)(b) in Manhattan.

Allegation B: Abuse of Authority – Premises Searched: Detective Odalis Perez searched § 87(2)(b) in Manhattan.

Allegation F: Abuse of Authority – Seizure of property: Detective Odalis Perez seized § 87(2)(b)'s property from the living room inside § 87(2)(b) in Manhattan.

Allegation G: Abuse of Authority – Seizure of property: Detective Odalis Perez seized § 87(2)(b)'s property from the bedroom inside § 87(2)(b), in Manhattan.

It is undisputed that Det. Odalis Perez entered § 87(2)(b)'s home, § 87(2)(b) at § 87(2)(b) a two bed-room unit. It is also undisputed that one phone was seized from the bedroom, and three others from the living room. (BR07) § 87(2)(g)

§ 87(2)(b) who resides at the apartment with her boyfriend § 87(2)(b) and her § 87(2)(b)-year-old daughter, stated as follows. On March 1, 2018, at approximately 6:00 am, she and § 87(2)(b) answered knocking at the door to find several officers with an arrest warrant for § 87(2)(b). But when § 87(2)(b) promptly surrendered and stepped outside into the hallway, the officers – for no apparent reason, since he was entirely compliant – jointly pushed § 87(2)(b) back into the apartment and, in the same movement, entered the premises without her consent. While two remained by the doorway with § 87(2)(b) (to remove his shoe laces, they said) the other officers – including the sole female in the group, identified by the investigation as Det. Perez – proceeded to fan out further into the unit over her objections, ignoring § 87(2)(b) when she asked them to exit. Because her daughter was drawn out by the commotion, § 87(2)(b) stepped away from the living room to put her back to bed, and thus did not see exactly what they were doing. (BR01)

When § 87(2)(b) went into the bedroom, Det. Perez followed her into the bedroom and started asking for § 87(2)(b)'s cell phones, and referred to those she had seen lying about in the living room. § 87(2)(b) had four cell phones in the apartment at the time, all of which were purchased and registered under her name: three were in the living room – a Samsung Galaxy on the couch, an LG on the floor, and an iPhone 8 was on a table; the fourth phone, another Samsung Galaxy, was charging in the bedroom until § 87(2)(b) picked it up. § 87(2)(b) told Det. Perez she had purchased the phones on rebates, and showed her receipts and contract paperwork to prove ownership. Without reviewing the documents, Det. Perez reiterated that she needed to confiscate the phones, including the charging Samsung § 87(2)(b) was now holding. When § 87(2)(b) asked to see the arrest warrant, Det. Perez said that she would be arrested if she did not comply, without specifying a charge. When she then asked to see her business card, Det. Perez grabbed the phone out of her hands. Soon thereafter, the officers left the scene with § 87(2)(b). § 87(2)(b) only realized after they left that the living room phones had been seized. (BR01)

The investigation was unable to reach § 87(2)(b) for a statement.

The investigation interviewed Det. Jeffrey Conover of Bronx Narcotics, who supervised the arrest warrant execution from a remote location. Det. Conover explained that § 87(2)(b) was one of 14 suspected co-conspirators who were apprehended that morning on arrest warrants, § 87(2)(e)

§ 87(2)(b). Both DEA agents and DA investigators were present for and involved with the warrant executions. While Det. Perez supervised § 87(2)(b)'s apprehension, Det. Conover did not know who else was present at the scene. Det. Conover acknowledged instructing the field teams, including the one led by Det. Perez, to seize any cell phones in the suspects' possession, whether on their person or in their immediate vicinity. Det. Conover never directed the teams to attempt any further search of the respective premises. § 87(2)(e) showed that § 87(2)(b) like the other subjects, used phones to facilitate narcotics transactions, Det. Conover had no specific numbers or devices linked to § 87(2)(b). Det. Perez had no direct involvement with § 87(2)(b)'s arrest as it unfolded at the scene: his knowledge of the arrest

was limited to receiving a positive confirmation call from Det. Perez, after apprehension, and his subsequent processing of the arrest paperwork. (BR02)

Det. Perez stated that she went to the scene with a team of DA investigators and no Police Department personnel, and that she entered the apartment with § 87(2)(b) consent after § 87(2)(b) was arrested: that he was handcuffed without incident when he came to the door and stepped out into the hallway; that § 87(2)(b) then wanted to know why he was being arrested; and that § 87(2)(b) allowed her inside when she asked to come in to explain the arrest confidence. (BR03)

Per Det. Perez, Det. Conover's instructions were to seize all cell phones at the arrest location. As speaking to § 87(2)(b) in the living room, Det. Perez observed several cell phones lying on a small table near her, which she identified in the marked photograph embedded below. (BR10) Following Det. Conover's instructions, Det Perez proceeded to seize the phones, believing them to be drug-related arrest evidence. While § 87(2)(b) may have said the phones were hers and not § 87(2)(b)s, Det. Perez could not take her at her word. Det. Perez did not recall if § 87(2)(b) contested the seizure any further and denied grabbing any phones out of § 87(2)(b)s hands. Throughout much of her interview, Det. Perez maintained: that all the phones were seized from the living room table; that her presence in the apartment was limited to the immediate vicinity of the doorway; that while some members of the team may have followed her inside, she was not aware of anyone entering the bedrooms; that she did not recall doing so herself; and that no one conducted a search of the premises. However, upon reviewing the property invoice, Det. Perez confirmed that the locational information listed for each item was based on what she recorded or relayed to Det. Conover and did not dispute the accuracy of the representations therein. Det. Perez was unable to explain why the invoice listed an item as being seized from the bedroom. (BR03)

The arrest evidence/property invoice shows that four cell phones were seized from the apartment – a tan Samsung, an Iphone, a LG, and a grey Samsung. Since the first three phones are logged as being seized from the living room, the unnamed item logged as recovered from the bedroom was determined to be the grey Samsung, by elimination. (BR07)

Review of the NYPD documentation on the incident showed no additional Narcotics officers at the scene.

An arrest warrant “carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within.” (Payton v New York, 445 US 573, 602 [1980], BR11)

When incident to an arrest, “the law permits a limited ‘search of the arrestee's person and the area within his immediate control’ to take place then and there...” (People v. Knapp, 52 N.Y.2d 689 [1981], BR12)

Under the plain view doctrine, “incriminating evidence” in plain view may be seized without a warrant, so long as the officer's position with respect to the evidence was lawful to begin with. Cell phones at the scene of a narcotics arrest may be seized without a warrant when in plain view

– the “association between narcotics trafficking and cell phones” being long established, their incriminating character is immediately apparent. (United States v Delva, 858 F3d 135 [2d Cir 2017], BR13)

§ 87(2)(g)
[REDACTED]

Allegation C: Abuse of Authority - Detective Odalis Perez threatened to arrest § 87(2)(b)

Allegation D: Abuse of Authority - Detective Odalis Perez refused to show the arrest warrant to § 87(2)(b)

Allegation E: Abuse of Authority - Detective Odalis Perez refused to provide her name to

§ 87(2)(b)

§ 87(2)(b) stated that when Det. Perez told her to hand over her Samsung, she asked to see the arrest warrant. In response, Det. Perez threatened to arrest her if she did not comply, without stating a charge. When § 87(2)(b) then asked Det. Perez for her business card, Det. Perez grabbed the phone out of her hands and walked away, stating that she would be able to provide a copy of the warrant after taking § 87(2)(b) downstairs. Det. Perez and the officers then exited the premises and went down with § 87(2)(b). But by the time § 87(2)(b) got herself together and went downstairs, the officers were leaving the scene in a blue van. § 87(2)(b) never got Det. Perez’s name. (BR01)

Per Det. Perez, § 87(2)(b) never asked to see the arrest warrant. While the warrant was shown to § 87(2)(b) when he was handcuffed, Det. Perez did not recall it was also shown to § 87(2)(b) independent of a request. Det. Perez stated that § 87(2)(b) asked for her name as she was exiting the apartment, and that she verbally provided her name in response. She denied threatening her with arrest. (BR03)

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED] has not been a party to any prior CCRB complaints.
- Det. Perez has been a member of service for 18 years: she has been a subject in four prior complaints, and five allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil and Criminal Histories

§ 87(2)(b) [REDACTED] rejected mediation. Notice of claim results are pending. § 87(2)(b) [§§ 86(1)(2)&(4)] § 87(2)(c) [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 08

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date